



*The Commonwealth of Massachusetts*  
*Executive Office of Energy and Environmental Affairs*  
*100 Cambridge Street, Suite 900*  
*Boston, MA 02114*

Deval L. Patrick  
GOVERNOR

Timothy P. Murray  
LIEUTENANT GOVERNOR

Ian A. Bowles  
SECRETARY

Tel: (617) 626-1000  
Fax: (617) 626-1181  
<http://www.mass.gov/envir>

April 20, 2007

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
ON THE  
NOTICE OF PROJECT CHANGE

PROJECT NAME: Fall River Combined Sewer Overflow  
Abatement Program  
PROJECT MUNICIPALITY: Fall River  
PROJECT WATERSHED: Mount Hope Bay, Taunton River  
EOEA NUMBER: 9096  
PROJECT PROPONENT: City of Fall River  
DATE NOTICED IN MONITOR: March 21, 2007

Pursuant to the Massachusetts Environmental Policy Act (M.G.L. c.30, ss.61-62H) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I have reviewed the materials submitted on this project and hereby determine that it **does not require** the preparation of a Supplemental Environmental Impact Report (EIR).

The Fall River Combined Sewer Outfall (CSO) Abatement project is intended to improve water quality associated with CSO discharges into Mount Hope Bay, Taunton River and Quequechen River. The project will also improve sewer system operation and reduce operation and maintenance costs. The United States Environmental Protection Agency (EPA) issued an Administrative Order in 1988 requiring the City to abate its CSO discharges and bring the system into compliance with the Federal Clean Water Act and the City's National Pollutant Discharge Elimination System (NPDES) Permit. A Federal Court Order (issued in 1992) and subsequent amendments (1995, 1997, and 2005) were issued outlining the methodology and schedule for meeting the requirements of the Administrative Order. The most recent amendment modifies the original Court Ordered Plan (which was the subject of previous MEPA filings) to what is now called the Modified Tunnel Plan.

A Certificate on the Final EIR for the project, with a finding of adequacy, was issued on April 29, 1994. Notices of Project Change (NPC) were then submitted in 1995 and 2000. The Secretary's Certificates on the NPCs (dated July 27, 1995 and August 15, 2000) determined that supplemental EIRs were not required. The City has recently submitted another NPC (March 2007) to address changes related to the 2005 amendment to the Court Ordered Plan.

The proposed project changes as described in the most recent NPC consist of a Modified Tunnel Plan (MTP) to replace the Court Ordered Plan (COP), which was the subject of previous MEPA filings, and modified drop shaft locations at Birch Street, Globe Street, and North Plymouth Street. These three drop shafts are being relocated due to subsurface conditions and to minimize traffic disruption. The main differences between the proposed MTP and the COP are as follows:

- The MTP defers, and may eliminate, construction of the North Tunnel in favor of alternative CSO controls such as screening and disinfection, pump station capacity upgrades and/or sewer separation of the North System;
- The MTP defers and may eliminate construction of the Extreme Event Outfall; and
- The MTP includes an implementation schedule that allows for sequenced construction of the South/Central Tunnel and associated permitting program to facilitate decision-making based on operation and performance rather than theoretical modeling.

The City has evaluated alternatives to the North Tunnel approach that would provide equivalent levels of CSO controls at a lower cost, and hopes to prove to the court after a period of evaluation, that the alternative CSO controls are sufficient and that the North Tunnel is not required. As part of the MTP, the City plans to construct a full-scale pilot screening and disinfection facility at the Cove Street CSO, and based on its performance, the City may construct similar facilities at the Alton Street, President Avenue and/or City Pier CSOs. Other options that will be considered by the City, based on the outcome of the Cove Street Pilot, include upgrades to the Central Street Pump Station, partial sewer separation improvements on the North System and/or construction of the North System Tunnel. The President Avenue CSO may involve work in Bicentennial Park, which is protected under Article 97 of the Constitution of the Commonwealth.

The City is proposing to continue using existing CSOs in conjunction with the South/Central Tunnel in lieu of the Extreme Event Outfall (EEO). The NPC indicates that this approach would significantly reduce project construction costs, and the frequency and volume of CSO overflows. The City intends to evaluate the existing CSO and tunnel system to determine if the EEO will be needed in the future.

The proposed changes as described in the NPC require several federal, state and local permits and approvals. Including permits related to the North Plymouth Avenue connecting tunnel, which crosses under Interstate 195 and beneath the Quequechen River. The project requires a permit from the Massachusetts Highway Department (MassHighway) and an Order of Conditions from the Fall River Conservation Commission (and on appeal only, a Superseding Order from the Massachusetts Department of Environmental Protection (MassDEP)). The project also requires approval under Section 10 of the Rivers and Harbors Act and a Programmatic

General Permit from the U.S. Army Corps of Engineers, and may require a NPDES Stormwater permit for construction activities. The project is under review by the Massachusetts Historic Commission because a portion of the project is located on the site of state-listed historic buildings. The project will require a Coastal Zone Management Federal Consistency Review. The project may require Article 97 legislation depending on the type of CSO controls selected by the City after a period of monitoring and evaluation.

The project is receiving financial assistance from the Commonwealth through the State Revolving Fund (SRF). Therefore, MEPA jurisdiction is broad and extends to all aspects of the project with the potential to cause Damage to the Environment as defined in the MEPA regulations.

MassDEP, in its comment letter, indicates that information presented in the NPC is consistent with the modified court order, and that MassDEP has agreed to these modifications and has no concerns regarding the proposed changes. I refer the City to MassDEP comments and recommendation regarding assessment and notification to address any contamination that may be encountered during excavation.

I note the Office of Coastal Zone Management (CZM) comments regarding the possible siting of screening and disinfection facilities in the 100-year floodplain. The City will need to provide additional information to CZM, as further detailed in its comment letter, to demonstrate consistency with Executive Order 149 (regarding state coordination with the Federal Administration under the National Flood Insurance Act of 1968), Executive Order 385 (Planning for Growth), and state coastal policies. The proponent has indicated that floodplain issues will be addressed in a Notice of Intent (NOI) and in a report required under the Federal Court Order (due by September 30, 2008), both of which will be provided to CZM. The City should map existing and proposed infrastructure relative to flood zones, and use hard copies of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs) as recommended by CZM. The City should consult with CZM to determine the additional information and analysis required for CZM to complete its Federal Consistency Review.

Deferral or elimination of the North Tunnel would result in continued use of existing CSOs and possibly new screening and disinfection facilities, and deferral of the EEO construction would result in a continuation of CSO discharges from the South and Central system locations during extreme storm events. The NPC concludes that intermittent use of the existing CSOs under the proposed MTP would have minimal impact on shellfish resources. The City should consult with Division of Marine Fisheries (DMF) to discuss its comments regarding shellfish resources. DMF has requested that the City prepare an analysis of how proposed project changes may affect shellfish resources, habitat, and water quality seaward of the discharge for review by state and federal agencies. I expect that the City will include this analysis in its submittal to CZM. The proponent has also indicated that the issues raised by DMF will be addressed as part of the report required under the Federal Court Order, due to be submitted by September 30th, 2008. The City should provide a copy of this report and the NOI to DMF for its review.


The Globe Street drop shaft will be relocated to a parcel of land historically known as the Globe Yarn Mills, which includes state-listed historic buildings and is listed as a National Historic Site. The project is within the Globe Yarn Mills, which is a contributing property to the Fall River Multiple Resource Area. According to the NPC, proposed structures will be completely buried with the exception of two manhole covers, and the site will be restored upon completion of construction. The Massachusetts Historical Commission has determined that the proposed project change would have no adverse effect on the Fall River Multiple Resource Area.

The NPC included information on impacts and mitigation associated with the MTP and relocated drop shafts. The City has committed to a range of construction-related mitigation measures including traffic and noise control plans, dust control and other air quality control measures, and erosion and sedimentation controls. The proposed project is intended as a water quality mitigation project to address problems related to CSOs. The project design include Best Management Practices (BMPs) to prevent recurrence of dry weather overflows and minimize duration, frequency and volume of wet weather overflows.

Based on a review of the NPC, comments received, and consultation with relevant public agencies, I find that the potential impacts of the project change do not warrant preparation of a Supplemental EIR. State agencies should forward new or revised Section 61 Findings to the MEPA Office for the project file. I remind the proponent that if Article 97 legislation is required for the Bicentennial Park or other alternative, a NPC will be required to address consistency with EOEEA's Article 97 Land Disposition Policy. A NPC may also be required if the Extreme Event Outfall (EEO) is proposed for construction since the NPC indicates that the EEO would need to be redesigned and would require new permits because the permits received have expired. I advise the City to consult with the MEPA Office prior to any future filings to discuss project changes and any related MEPA documents that may be required.

April 20, 2007

DATE



Ian A. Bowles, Secretary

Comments Received:

4/10/07	Department of Environmental Protection, Southeast Regional Office
4/10/07	Office of Coastal Zone Management
4/11/07	Massachusetts Historical Commission
4/12/07	Division of Marine Fisheries

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